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SB-555 Jails and juvenile facilities: communications, information, and commissary services: contracts.
(2019-2020)

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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL

NO. 555

Introduced by Senator Mitchell
(Coauthors: Assembly Members Medina and Wicks)

February 22, 2019

An act to amend Section 4025 of, and to add Section 4025.1 to, the Penal Code, relating to detention facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 555, Mitchell. Jails and juvenile facilities: communications, information, and commissary services: contracts.

(1) Existing law allows the sheriff of each county to operate a store in connection with the county jail to sell confectionary, tobacco, postage and writing materials, and toilet articles to incarcerated people in the jail. Existing law allows the sheriff to fix the sale prices of the articles offered for sale at the store. Existing law requires profits from the store to be deposited in the inmate welfare fund and requires the fund to be used primarily for the benefit, education, and welfare of incarcerated people.

This bill would prohibit the items in the store from being offered at a price in excess of 10% above the cost paid to the vendor supplying the article. The bill would rename the inmate welfare fund the incarcerated peoples' welfare fund and would require money in the fund to be expended solely for the benefit, education, and welfare of incarcerated people. The bill would require articles offered for sale at the store to only be available for purchase by incarcerated people and not staff of the jail.

(2) Existing law imposes specified procedural and substantive content requirements on contracts entered into by local agencies, including cities and counties.

This bill would cap telephone and other service rates and would prohibit communication or information service providers from imposing and collecting specified fees.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

- (1) There is a statewide need to protect incarcerated people and their loved ones from predatory practices by private companies providing goods and services to people confined in county jails and juvenile facilities throughout the state.
- (2) The people who suffer the most from these predatory industry practices and resulting unfair contracts are people confined in county juvenile facilities and jails, who are generally incarcerated pretrial and should be presumed innocent until proven otherwise, and their loved ones.
- (3) The emotional toll and economic burden of having a loved one incarcerated is severe, and these individuals are deserving of the protection of the state.
- (4) Promoting family and community connection and economic stability while a loved one is incarcerated is key to successful reentry, and it is therefore in the interest of all Californians to reduce the economic burden associated with incarceration in county jails and juvenile facilities to promote public safety.

(b) It is the intent of the Legislature to do the following:

- (1) End commissions, reduce rates and fees associated with county juvenile facility and county jail communications, information, or commissary services.
- (2) Reduce the financial burden on people with incarcerated loved ones in California county jails and juvenile facilities.
- (3) Ensure that contracts for communications, information, or commissary services are awarded to the provider who offers the lowest cost to consumers for services that meet minimal quality standards.

SEC. 2. Section 4025 of the Penal Code is amended to read:

4025. (a) The sheriff of each county may establish, maintain and operate a store in connection with the county jail and for this purpose may purchase confectionery, tobacco and tobacco users' supplies, postage and writing materials, and toilet articles and supplies and sell these goods, articles, and supplies for cash to incarcerated people in the jail. Articles offered for sale at the store shall only be available for purchase by incarcerated people and not employees of the jail.

(b) The sale prices of the articles offered for sale at the store shall not exceed a 10-percent markup above cost paid to the vendor supplying the article.

(c) There shall also be deposited in the incarcerated peoples' welfare fund 10 percent of all gross sales of inmate hobbycraft.

(d) There shall be deposited in the incarcerated peoples' welfare fund any money, refund, rebate, or commission received from a telephone company, pay telephone provider, or other communications or information service provider when the money, refund, rebate, or commission is attributable to the use of pay telephones and other communications or information services which are primarily used by inmates while incarcerated.

(e) The money and property deposited in the incarcerated peoples' welfare fund shall be expended by the sheriff solely for the benefit, education, and welfare of the incarcerated people confined within the jail. Incarcerated peoples' welfare funds shall not be used to pay required county expenses of confining incarcerated people in a local detention system, such as meals, clothing, housing, or medical services or expenses. An itemized report of these expenditures shall be submitted annually to the board of supervisors.

(f) The operation of a store within any other county adult detention facility which is not under the jurisdiction of the sheriff shall be governed by this section, except that the board of supervisors shall designate the proper county official to exercise the duties otherwise allocated in this section to the sheriff.

(g) The operation of a store within any city adult detention facility shall be governed by this section, except that city officials shall assume the respective duties otherwise outlined in this section for county officials.

(h) The treasurer may, pursuant to Article 1 (commencing with Section 53600), or Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, deposit, invest, or reinvest any part of the incarcerated

peoples' welfare fund, in excess of that which the treasurer deems necessary for immediate use. The interest or increment accruing on these funds shall be deposited in the incarcerated peoples' welfare fund.

(i) The sheriff may expend money from the incarcerated peoples' welfare fund to provide indigent incarcerated people, prior to release from the county jail or any other adult detention facility under the jurisdiction of the sheriff, with essential clothing and transportation expenses within the county or, at the discretion of the sheriff, transportation to the incarcerated person's county of residence, if the county is within the state or within 500 miles from the county of incarceration. This subdivision does not authorize expenditure of money from the incarcerated peoples' welfare fund for the transfer of any incarcerated person to the custody of any other law enforcement official or jurisdiction.

SEC. 3. Section 4025.1 is added to the Penal Code, to read:

4025.1. (a) Telephone, communications, or information services rates and other service rates shall comply with the following:

- (1) Rates charged to a consumer for telephone communications shall not exceed five cents (\$0.05) per minute.
- (2) Rates charged to a consumer for video communications shall not exceed twenty-five cents (\$0.25) per minute.

(b) This section applies only to contracts entered into or renewed on or after January 1, 2021.

(c) A company providing communications or information services as specified by this section shall be prohibited from taking funds from consumers' accounts after periods of inactivity. Funds remaining on accounts after 90 days of inactivity shall be returned to consumers at no additional cost.

(d) The following fees shall be prohibited for any of the goods or services identified in this section:

- (1) Fees to be charged for depositing money into incarcerated people's trust accounts for commissary services.
- (2) Fees to open, maintain, fund, or close an account with a communications or information service provider.
- (3) Fees to receive a refund from a communications or information service provider.
- (4) Fees to receive a paper bill with communications or information service providers.
- (5) Fees charged for third-party payments through companies including, but not limited to, Western Union and MoneyGram, consistent with subdivision (e).

(e) This section shall not be construed to prevent probation and sheriffs' departments from disallowing any additional fees charged to consumers for these services as they deem appropriate.

(f) As used in this section:

- (1) "Commission or other payment" means any payments made to provide an incentive for the procurement of contracts, but does not include grants and other payments that do not increase the cost of telephone calls or communications or information services billed to consumers.
- (2) "Information services" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, using, or making information available via telecommunications system or the management of a telecommunication service.
- (3) "Communications services" means telephone services, electronic mailing and messaging services, and video visitation services. "Communication services" includes Voice over Internet Protocol (VoIP) technology, as defined in Section 239 of the Public Utilities Code, and any technology that is developed after the operative date of the act adding this chapter that is made available to incarcerated people and their loved ones to facilitate their communication.
- (4) "Commissary services" means any goods sold inside county facilities to people confined therein.
- (5) "Fees" means an amount of money charged to consumers for the use of communications, information, or commissary services. Fees include hidden or undisclosed fees, including extra fees charged for opening an account, having an account, funding an account, closing an account, getting a refund, or receiving a paper bill.
- (6) "Rates" means a predetermined cost for use of communications, information, or commissary services set by the contracted companies providing services. The rates shall be determined by pricing agreements detailed in the contracts with sheriffs' and probation departments or any other county entity entering into contracts applicable to county juvenile facilities. A rate for communications services shall be calculated on a per-minute basis.